IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 740 (M/B) of 2006

1. M/s P.K. Singhal & Co. Chartered Accountants, Head Office at 1415 Rambagh, Herbertpur, Dehradun through its partner P.K. Singhal aged about 42 years
2. M/s A. Srivastava & Co. Chartered Accountants, Head Office at G59A, Sanjay Gandhipuram, Faizabad Road, Lucknow and branch office at 6th Saket Colony, Near Vatsalya, Ajabpur Kalan, Dehradun through its partner Akhilesh Kumar Srivastava aged about 48 years S/o Late Raja Ram Lal Srivastava
3. M/s Dhawan & Madan, Chartered Accountants, Head Office at 6 Park Road, Lucknow and branch office at 75/6 Rajpur Road, Near Raj Plaza, Dehradun through P.K. Dhawan aged about 42 years S/o Sri H.N. Dhawan

.....Petitioners

Vs

1. Chief Secretary, Uttaranchal State, Ex-Officio Chairman of Executive Committee of Uttaranchal Sabhi Ke Liye Shiksha Parishad, Civil Secretariat, Dehradun, Uttaranchal
2. Principal Secretary (Finance) Uttaranchal State, Ex-Officio Chairman of Executive Committee of Uttaranchal Sabhi Ke Liye Shiksha Parishad, Civil Secretariat, Dehradun, Uttaranchal
3. Principal Secretary (Education) Uttaranchal State, Ex-Officio Chairman of Executive Committee of Uttaranchal Sabhi Ke Liye Shiksha Parishad, Civil Secretariat, Dehradun, Uttaranchal
4. State Project Director, Uttaranchal Sabhi Ke Liye Shiksha Parishad, Education Complex, Mayur Vihar, Dehradun

.....Respondents

Sri A.R. Masoodi, Advocate for the petitioner
Sri K.P. Upadhyaya, ld. counsel for Respondents

Dated: - August 10, 2006

Coram: Hon'ble P.C. Verma,J.
Hon'ble B.S. Verma,J.

By means of this writ petition, the petitioner has prayed for writ of certiorari quashing the impugned condition of Head Office as circulated in the impugned

advertisement dated 11.03.2006 contained in Annexure No. 1 to the writ petition.

2. The said advertisement has been made by Uttaranchal Sabhi Ke Liye Shiksha Parishad, State Project Office, Education Complex, Mayur Vihar, Sahastradhara Road, Dehradun. The Uttaranchal Sabhi Ke Liye Shiksha Parishad has been launched by the State of Uttaranchal with the aid of Ministry of Human Resources, Government of India and of World Bank. The activities of the societies are funded jointly by the Government of India as well as by the Government of Uttaranchal.

3. By means of the aforesaid advertisement, the society invited " Expression of Interest" from all the firms for short listing of Chartered Accountant Firms for carrying out the annual audit of societies accounts for the financial year 2005-06. It has specifically been provided in the advertisement that the chartered accountant firms must have their registered head office in the State of Uttaranchal and must have a minimum of five years experience with at least one full time F.C.A. and sufficient staff to carry out the audit work in all the districts of the state.

4. The Head Office of Petitioner No. 1 firm is at Dehradun and Head Office of Petitioner Nos.2 and 3 firms are at Lucknow. It is pertinent to mention here that the said head office of petitioner No.1 has been opened after the issuance of advertisement. The main ground of challenge is that the petitioners' firms branch offices are at Dehradun and the branch offices have been created under Section 27 of the Chartered Accountants Act, 1949. Since the branch offices of the petitioners' firms

are situated at State of Uttaranchal, the impugned advertisement infringes the fundamental right of the petitioners' enshrined under Article 14 and 19 (1) (g) of Constitution of India, as by putting the condition that the Chartered Accountants firms must have their registered head office in State of Uttaranchal, the petitioners' firms have been excluded from being considered.

5. The guidelines issued by the Government of India only prescribe that the chartered accountant firm must have 5 years of experience, however there is no mention about the location of head office in those guidelines. The State of Uttaranchal is also funding the society jointly, therefore, for the audit of the society in various districts, it was in the wisdom of the State Government, appropriate to have an accountant firm which Head Office is at Uttaranchal, seemed appropriate and in the public interest, as the firms coming from outside, their branch office may not be able to reach to far-flung areas in the hills. The decision has been taken considering the topography of the State. There is another reason to have this condition so that whenever any information is needed urgently or something is done during the course of audit, the Head Office being in Uttaranchal will facilitate the functioning of the accountants firm.

6. Since the State is funding the society jointly, therefore, the State of Uttaranchal has a right to impose such a condition and hence such condition cannot be ultra-vires. The petitioners' right under Article 19(1)(g) of the Constitution of India has not been infringed in as much as the firm is Lucknow based and the firms may have so many work in State of U.P. and anywhere else also. It can be treated to be a bar on profession of the

firms and it is a reasonable classification between the Chartered Accountants firms Head Office of which are in Uttaranchal and between other firms.

7. Therefore, we do not find any merit in the writ petition. The writ petition is dismissed accordingly. No order as to costs.

(B.S. Verma, J.) **(P.C. Verma, J.)**

Rajeev Dang